

L. JOYCE HAMPERS  
COMMISSIONER

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Leverett Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

September 18, 1981

You assist employers in providing medical expense plans ("Plans") for their employees. The Plans are either self-funded or are funded by employee and employer contributions and by income generated from these contributions. You inquire as to the Massachusetts income tax treatment of these Plans.

Some of the Plans are established by religious, educational or charitable organizations described in Section 501(c)(3) of the Internal Revenue Code ("Code"). Other Plans qualify under Section 501(c)(9) of the Code as voluntary employees' beneficiary associations that provide for the payment of life, sick, accident, or other benefits. The Plans are exempt from federal income taxation except to the extent that they have "unrelated business income." Dividends and interest are generally not included in the unrelated business income of a Section 501(c)(3) organization. (I.R.C. s. 512(b)(1)). In the case of an employees' association, dividends and interest are not unrelated business income if they are used to provide for the payment of life, sick, accident or other benefits. Also excluded from unrelated business income are dues, fees, or charges paid by members for the purposes for which exempt status was granted to the organization. (I.R.C. s. 512(a)(3)(B)).

Under Section 106 of the Code an employee's gross income does not include contributions which his employer makes to accident or health plans for compensation to his employees for personal injuries or sickness. An employee's contributions to

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an accident or health plan are not excluded from his federal gross income. Unless excluded under subsections (b), (c) or (d) of Section 105 of the Code, benefits received by an employee attributable to his employer's contributions are taxable to him. Benefits received by an employee attributable to his own contributions are tax-free. (I.R.C. s. 104(a)(3)).

Massachusetts gross income is federal gross income with certain modifications. (G.L. c. 62, s. 2).

Based on the foregoing it is ruled that:

1. Employee contributions to a medical expense plan are not excluded from an employee's Massachusetts gross income in the year they are contributed.

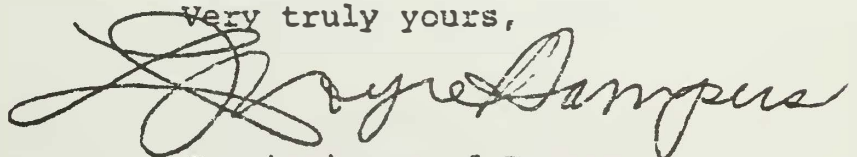
2. Benefits received by an employee attributable to his own contributions are not included in the employee's Massachusetts gross income.

3. Employer contributions to the Plan are not included in the employee's Massachusetts gross income in the year they are contributed.

4. Benefits received by an employee attributable to his employer's contributions are includible in the employee's Massachusetts gross income to the extent that they are includible in the employee's federal gross income.

5. Contributions held in trust for the payment of sick or accident benefits and the income generated thereon are exempt from Massachusetts income taxation. However, the trustee is required to file a Fiduciary Income Tax Return (Form 2).

Very truly yours,

A handwritten signature in dark ink, appearing to read "Royce Dampas", written in a cursive style.

Commissioner of Revenue

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LR 81-84